



Rep. Marlow H. Colvin

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LRB095 01053 RAS 48808 a

1 AMENDMENT TO HOUSE BILL 2405

2 AMENDMENT NO. _____. Amend House Bill 2405 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Procurement Code is amended by
5 changing Section 45-45 as follows:

6 (30 ILCS 500/45-45)

7 Sec. 45-45. Small businesses.

8 (a) Set-asides. The chief procurement officer has
9 authority to designate as small business set-asides a fair
10 proportion of construction, supply, and service contracts for
11 award to small businesses in Illinois. Advertisements for bids
12 or offers for those contracts shall specify designation as
13 small business set-asides. In awarding the contracts, only bids
14 or offers from qualified small businesses shall be considered.

15 (b) Small business. "Small business" means a business that
16 is independently owned and operated and that is not dominant in

1 its field of operation. The chief procurement officer shall
2 establish a detailed definition by rule, using in addition to
3 the foregoing criteria other criteria, including the number of
4 employees and the dollar volume of business. When computing the
5 size status of a bidder, annual sales and receipts of the
6 bidder and all of its affiliates shall be included. The maximum
7 number of employees and the maximum dollar volume that a small
8 business may have under the rules promulgated by the chief
9 procurement officer may vary from industry to industry to the
10 extent necessary to reflect differing characteristics of those
11 industries, subject to the following limitations:

12 (1) No wholesale business is a small business if its
13 average annual sales over the 3 most recent calendar years
14 ~~for its most recently completed fiscal year~~ exceed
15 \$10,000,000.

16 (2) No retail business or business selling services is
17 a small business if its average annual sales and receipts
18 over the 3 most recent calendar years exceed \$6,000,000.

19 (3) (Blank). ~~No manufacturing business is a small~~
20 ~~business if it employs more than 250 persons.~~

21 (4) No construction business is a small business if:

22 (A) its average annual sales and receipts over the
23 3 most recent calendar years exceed \$10,000,000; or

24 (B) its average annual sales and receipts over the
25 3 most recent calendar years exceed \$2,000,000 and it
26 has received a cumulative total of \$5,000,000 or more

1 from State construction and construction-related
2 professional services contracts.

3 (c) Fair proportion. For the purpose of subsection (a), for
4 State agencies of the executive branch, a fair proportion of
5 construction contracts shall be no less than 25% ~~nor more than~~
6 ~~40%~~ of the annual total contracts for construction and
7 construction-related professional services.

8 (d) Withdrawal of designation. A small business set-aside
9 designation may be withdrawn by the purchasing agency when
10 deemed in the best interests of the State. Upon withdrawal, all
11 bids or offers shall be rejected, and the bidders or offerors
12 shall be notified of the reason for rejection. The contract
13 shall then be awarded in accordance with this Code without the
14 designation of small business set-aside.

15 (e) Small business specialist. The chief procurement
16 officer shall designate a State purchasing officer who will be
17 responsible for engaging an experienced contract negotiator to
18 serve as its small business specialist, whose duties shall
19 include:

20 (1) Compiling and maintaining a comprehensive bidders
21 list of small businesses. In this duty, he or she shall
22 cooperate with the Federal Small Business Administration
23 in locating potential sources for various products and
24 services.

25 (2) Assisting small businesses in complying with the
26 procedures for bidding on State contracts.

1 (3) Examining requests from State agencies for the
2 purchase of property or services to help determine which
3 invitations to bid are to be designated small business
4 set-asides.

5 (4) Making recommendations to the chief procurement
6 officer for the simplification of specifications and terms
7 in order to increase the opportunities for small business
8 participation.

9 (5) Assisting in investigations by purchasing agencies
10 to determine the responsibility of bidders on small
11 business set-asides.

12 (f) Small business annual report. The State purchasing
13 officer designated under subsection (e) shall annually before
14 December 1 report in writing to the General Assembly concerning
15 the awarding of contracts to small businesses. The report shall
16 include the total value of awards made in the preceding fiscal
17 year under the designation of small business set-aside. The
18 report shall also include the total value of awards made to
19 businesses owned by minorities, females, and persons with
20 disabilities, as defined in the Business Enterprise for
21 Minorities, Females, and Persons with Disabilities Act, in the
22 preceding fiscal year under the designation of small business
23 set-aside.

24 The requirement for reporting to the General Assembly shall
25 be satisfied by filing copies of the report as required by
26 Section 3.1 of the General Assembly Organization Act.

1 (g) Notwithstanding any other rulemaking authority that
2 may exist, neither the Governor nor any agency or agency head
3 under the jurisdiction of the Governor has any authority to
4 make or promulgate rules to implement or enforce the provisions
5 of this amendatory Act of the 95th General Assembly. If,
6 however, the Governor believes that rules are necessary to
7 implement or enforce the provisions of this amendatory Act of
8 the 95th General Assembly, the Governor may suggest rules to
9 the General Assembly by filing them with the Clerk of the House
10 and the Secretary of the Senate and by requesting that the
11 General Assembly authorize such rulemaking by law, enact those
12 suggested rules into law, or take any other appropriate action
13 in the General Assembly's discretion. Nothing contained in this
14 amendatory Act of the 95th General Assembly shall be
15 interpreted to grant rulemaking authority under any other
16 Illinois statute where such authority is not otherwise
17 explicitly given. For the purposes of this amendatory Act of
18 the 95th General Assembly, "rules" is given the meaning
19 contained in Section 1-70 of the Illinois Administrative
20 Procedure Act, and "agency" and "agency head" are given the
21 meanings contained in Sections 1-20 and 1-25 of the Illinois
22 Administrative Procedure Act to the extent that such
23 definitions apply to agencies or agency heads under the
24 jurisdiction of the Governor.

25 (Source: P.A. 92-60, eff. 7-12-01; 93-769, eff. 1-1-05.)".